

3.
(wmd)

Claim 48. A support structure for an electrified fence which comprises a sleeve for receiving and substantially surrounding the entire exposed surface of a post which extends vertically from the underlying surface at the site of the electrified fence, the interior of said sleeve comprising friction means for frictionally and forceably receiving the post, said sleeve including an exterior web which is disposed parallel to the post when said sleeve is installed over said post, said web having an opening for receiving an electrified wire of the fence, said sleeve being composed of a dielectric material at least where it receives the electrified wire, said sleeve further including a cap for covering the top of the post when said sleeve is installed over the post.

REMARKS

In the Official Action of May 16, 2002, a restriction requirement was made as follows:

- I. Claims 1, 2 and 33-46 drawn to a method of construction; and
- II. Claims 10, and 18-32 drawn to a fence support.

It will be noted that new Claim 47 added in this Amendment falls in the Group I claims and new Claim 48 falls within the Group II claims. In order to be completely responsive, Applicant elects the Group II claims for prosecution in the instant Application. That is, the election is directed to Claims 10, 18-32 and 48. Applicant further respectfully traverses the restriction requirement.

The restriction requirement was made in this case in view of the Manual of Patent Examining Procedure, Section 806.05(f). It was thus stated, in effect, that the Group I claims and the Group II claims are related as being directed to a process of making and the product made. It is further stated in the Official Action that the inventions may be considered distinct if either or both of the following can be shown:

(1) That the process as claimed can be used to make another materially different product; or

(2) That the product as claimed can be made by another materially different process.

In the instant case, it was further stated in the Official Action that the fence support can be used without fitting over a support member to support a wire of a fence. However, this is not, of course, what the instant invention represents itself to be or what, in fact, is claimed. Thus in Claim 33, the method of construction comprises a step of fitting a sleeve over a support member. The claim further provides that the sleeve is provided with at least one web and the web is provided with at least one incision for supporting a wire in that incision. Thus specifically this method claim requires a support member over which the sleeve is fitted. In the same manner, Claim 18 comprises a sleeve for fitting over a support member. Although it is a sleeve, as such, that is being claimed, nevertheless that sleeve is limited to a sleeve for fitting over a support member. The claim also requires the sleeve to comprise at least one web and such web comprises at least one means to support lengths of material, such means comprising an incision.

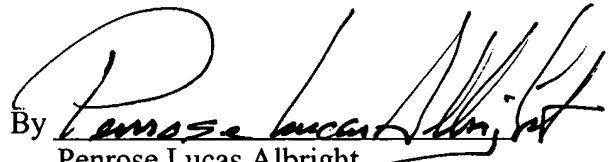
Utilizing a sleeve, as such, as a post hardly seems practicable. Moreover this is not what the claims define as the invention. Even if it may be possible to make a sleeve that might somehow be used as a fence post, per se, this is not the invention which is defined in the claims. Nor does the specification, as such, provide enablement for a theoretical sleeve of this type. In other words, the claimed inventions for method and product in the instant Application do not correspond to the basis set forth in MPEP §806.05(f) and repeated in the Official Action to justify a restriction requirement in the instant Application. Claims 47 and 48 which are relatively broad claims directed to Applicant's inventive concepts may be helpful in leading to an

understanding of why the inventive concepts of the Group I claims and the Group II claims are not sufficiently distinct or different to testify a restriction requirement as defined in 35 U.S.C. §121. Accordingly, Applicant kindly but firmly traverses the restriction requirement and requests that it be withdrawn.

By adding Claims 47 and 48, the total number of claims have been increased by two and the independent claims have also been increased by two, whereby an additional fee of \$102.00 appears to be required and our check to cover same is submitted herewith. However, if this is in error, the Commissioner of Patents and Trademarks is authorized to credit or debit our Account No. 13-2000 as appropriate.

Respectfully submitted,

MASON, MASON & ALBRIGHT

By 
Penrose Lucas Albright
Registration No. 19,082

2306 South Eads Street
P.O. Box 2246
Arlington, VA 22202
Tel (703) 979-3242
Fax (703) 979-2526

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